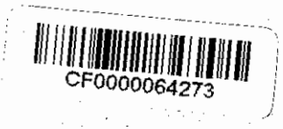
CrA 92/01 (2)



XII-18 (Jail) C.J.P.R./9-94

APPEAL OF PRISONER

No..S.T.No.192/99..... Name- देवनारायण - - - - - - - - - - - - - -

Father's Name- मोहितराम -

Residence- मु. रेड़ा पो. सारंगढ़ जि. रायगढ़ - age- २३ वर्ष - - - -

Sentenced to- आजीवन कारावास - - - on- 23-11-2000 - - -

under Section- - ३०२ भा.द.वि. - - - by सत्र न्यायाधीश रायगढ़ (छ.ग.)

- - - - - - - - - - - - - - - - - - - -

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.A. 92/01 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH, BILASPUR

DIVISION BENCH HON. SHRI L.C. BHADOO AND HON. SHRI DHIRENDRA MISHRA, JJ

Criminal Appeal No. 92 of 2001

Appellant : Devnarayan

Versus

Respondent : State of M.P.

Present
Mr. Avinash K. Mishra, learned counsel for the appellant.
Mr. Neeraj Mehta, learned P.L. for the State/respondent.

ORAL JUDGMENT
(21.12.2006)

Per L.C. Bhadoo, J

This appeal is directed against the judgment of conviction and order of sentence dated 29th November 2000 passed by Sessions Judge, Raigarh in S.T. No. 192/99 whereby the learned Sessions Judge after holding accused/appellant guilty for committing the murder of his mother Guruwaribai, under Section 302 of the I.P.C., sentenced him to undergo imprisonment for life.

P.T.O.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.A.:92/01 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

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2. Case of the prosecution, in brief, is that PW-1 Santosh Das gave Merg intimation (Ex.P/1) in the Police Station – Sarangagad to the effect that he is Kotwar of the village. When he was working in his agriculture field, his son came and informed that Devnarayan has committed the murder of his mother. On hearing this he went towards the house of Guruwaribai. Narad Yadav met him on the way and informed him that Devnarayan has committed the murder of his mother by pressing her neck, on which he along with Sub-Sarpanch of the village went to the agriculture field and saw that the dead body of Guruwaribai was lying in the field. The head separated from the body was kept on the bund. On enquiry he came to know that Devnarayan has asked his mother not to go to the field for doing work but in spite of that she went to the field, therefore, the accused went to the field, fell her down by pressing her neck and thereafter cut her neck with the help of spade. Receiving this report the Station House Officer, Police Station – Sarangagad registered the First Information Report (Ex.P/2), left for the scene of occurrence and prepared the site plan (Ex.P/3) of the place of occurrence. He prepared the inquest report (Ex.P/7) of the dead body of Guruwaribai. He also took into possession one

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मामला क्रमांक ..Cr..A..92/01.. **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

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	spade stained with blood from the place of occurrence under Ex.P/8. The plain and bloodstained soil was taken into possession under Ex.P/9. While in police custody, the accused gave memorandum Ex.P/10 regarding the place where he had kept the spade the weapon of offence and in pursuance of that he got recovered the spade under Ex.P/11. Thereafter, dead body of Guruwaribai was sent for postmortem examination to Primary Health Center, Sarangagad under Ex.P/16 where Dr. P.K. Tripathi (PW-12) conducted postmortem on the body of deceased and prepared the postmortem report Ex.P/17. He opined that death was due to complete decapitation of the head from the body leading to excessive hemorrhage and shock and the death was homicidal in nature. After completion of the investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Sarangagad who in turn committed the case to the Sessions Judge, Raigarh. Learned Sessions Judge framed charge against the accused. Accused Devnarayan initially admitted the guilt but on being informed that he may be liable to be punished for life imprisonment or death sentence, he said that he wants trial.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..Cr..A..92/01.. सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3. Prosecution in order to establish the charge against the accused examined 16 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime.

4. Learned Sessions Judge after hearing counsel for the respective parties convicted and sentenced the accused as aforementioned.

5. We have heard Mr. Avinash K. Mishra, learned counsel appearing for the appellant and Mr. Neeraj Mehta, learned P.L. for the State/respondent.

6. Mr. Mishra has not disputed the homicidal death of Guruwaribai. Apart from that, Dr. P.K. Tripathi (PW-12) who conducted postmortem on the body of Guruwaribai has noticed that the head was completely separated from the body by a severed laceration involving all the muscles of the neck i.e. all neck muscles, both common carotid arteries, the jugular veins, cervical nerves, larynx and the trachea, esophagus and the 2nd, 3rd, 4th and 5th cervical

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मामला क्रमांक ..Cr.A.:.92/01.. **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

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bones including the spinal cord and huge amount of blood escaped out of the lacerated structures and had soiled the body and head. Both the clavicles and the manubrium stems were crushed and had multiple fractures. The injuries were caused by a moderately sharp cutting object and the death was homicidal in nature. Therefore, in view of the above medical evidence it is established that the death of Guruwaribai was homicidal in nature.

7. As far as involvement of accused Devnarayan in crime in question is concerned, PW-2 Padum has stated that on the fateful day he along with other persons were working in the agriculture field of one Jhadu which was adjoining to the agriculture field of accused. In the agriculture field of accused Sumitra, mother of the accused and one more lady were working. They heard the scream from the side of the agriculture field of accused Devnarayan, on which they thought as to who is screaming, for what reason the screams are being raised. After some time when he along with Rameshwar and Gopal went towards the field of Devnarayan, they saw that the accused Devnarayan holding the neck of his mother was pressing her into the mud. When they asked him to leave her and not to do like this,

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मामला क्रमांक ..Cr.A.:92/01 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

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Devnarayan said "you should go away from here otherwise he will also attack them", on which they ran away from there.

PW-3 Rameshwar has also corroborated the above evidence of PW-2 Padum and stated that when they reached to the field of Devnarayan, they saw that the accused holding the neck of his mother dipped her into water. On seeing them, Devnarayan said that go away from here, on which they left the place. Thereafter, they came to know that Devnarayan has chopped the head of his mother with spade. PW-8 Gopal has stated that he was also working in the agriculture field of Jhaduram Sahu along with others and after hearing the scream from the side of the field of the accused, they went towards that side and saw that the accused was pressing the neck of his mother in the field, on which they asked why he was doing such a wrong act whereupon the accused replied that you should go away. When the accused turned the body of his mother, they saw that she had died. Accused in his statement under Section 313 of the Cr.P.C. has totally denied the above evidence and has not given any explanation for the same. These three witnesses are independent witness and in their cross-examination by the defence, the defence

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मामला क्रमांक ...Cr.A.92/01... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

has not been able to elicit any circumstance which makes their evidence untrustworthy or unreliable. Moreover, the weapon of offence i.e. spade, was recovered at the instance of the accused under his memorandum Ex.P/10 from his house. Even the accused in reply to the charge framed against him, initially admitted the crime but when he was informed by the Court that for this he may be liable to be punished with life imprisonment or death sentence, he simply said that he want trial. Therefore, from the evidence of above three eyewitnesses and other corroborating circumstances, the involvement of the accused in committing the murder of his mother stands established.

8. For the foregoing reasons, we are of the considered opinion that there is no illegality or infirmity in the judgment of the trial Court as the same is based on legal evidence. Accordingly, the appeal being devoid of substance is liable to be dismissed and is hereby dismissed.

Sd/-
L.C. BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge

P.T.O.